"In accordance with the provisions of rule 96 of the Rules of Procedure and Conduct of Business in Lok Sabha, I am directed to enclose the Constitution (One Hundred and Fifth Amendment) Bill, 2006, which has been passed by Lok Sabha at its sitting held on the 22nd May, 2006, in accordance with the provisions of article 368 of the Constitution of India."

Sir, I lay a copy of the Bill on the Table.

GOVERNMENT. BILL—*Contd.*

The Taxation Laws (Amendment) Bill, 2006—*Contd.*

SHRI SANTOSH BAGRODIA (Rajasthan): Mr. Deputy Chairman, Sir, I rise to support the Taxation Laws (Amendment) Bill, 2006, to amend the Income-Tax Act, 1961, to amend the Customs Act, 1962, the Customs Tariff Act, 1975, the Central Excise Act, 1944 and the Central Sales Tax Act, 1956. Sir, I first refer, straightway, to the Statement of Objects and Reasons. In the first paragraph, in the last line, it says, "The object of rationalising and simplifying certain procedures, widening of tax base, and plugging loopholes leading to leakage of revenue." This is, definitely, a good intention. But, is it really true and effective? Is this Act going to really help in rationalisation? Will it help in simplification? Will it help in leakage of revenue? This has to be seen. My colleague, Shri Bhardwajji, has just now mentioned that whenever an officer comes to any office for assessment, or, even if he comes as a friend, he or she is scared of the Assessing Officers. Why? Because, this is the kind of mindset of these Income-Tax, or, Excise Duty, or Customs Officers, the standard practice is to scare the assessee.

It is the assessee who is making the payment. If there is an assessee who is avoiding the tax or who is evading the tax—not avoiding the tax, but evading the tax—the strongest possible action should be taken. I am for it. But since you are taking the tax from these people, actually, these are your customers. I should say, these are the customers of the Department. So, Sir, through you, I will request the hon. Minister that if he will make it more friendly, you will be able to assess better. There will be less corruption because whoever is doing the assessment must be fair to the assessee also. He must interpret the law, not necessarily, in

the interest of the assessee or against the interest of the assessee just to scare him. A number of cases, hundreds and thousands and lakhs of cases can be seen where the assessment has been done at a particular level, say, one lakh rupees, and after appeals at different levels, you will find the assessment comes down to Rs. 5000. Do you think that the concerned Income-Tax Officer or the Sales Tax Officer or the Excise Duty Officer doesn't understand it? He is doing it only to scare the assessee for more corruption. In this kind of situation where this kind of assessment is done, the concerned officers should be made accountable. The action should be taken against such officers who are blatantly increasing the tax liability for no rhyme or reason. I will request the hon. Minister for this action, for this kind of an amendment. I think, either through a Bill or through an administrative order, something should be done on this. The law is meant to be interpreted properly by the officers, and it is to help the assessees.

Sir, my second point relates to the second paragraph of the Statement of Objects and Reasons of the Bill. I am referring here only those lines which are important for my discussion. It is said," ...requiring payment exceeding twenty thousand rupees by way of an account payee cheque." Sir, when charitable institutes are making such payments, I would say that the number of issues is so high or the cost has increased so much that even this Rs. 20,000 seems to be too low. I will request the hon. Minister to increase it to Rs. 50,000.

Sir, the next point is also related to this paragraph. It is said, "it is further proposed to exclude from the previous year 2004-05 any sum received from a charitable entity...." As a normal practice, we should not do anything which is retrospectively effective. It becomes very difficult for an ordinary citizen to comply with because, something has already happened and you want to make a law which is retrospectively affecting him. If this is necessary in this case, I will support it. But, Sir, such type of thing should be avoided as much as possible.

Sir, on the same paragraph, the next thing is," ...empowering the Tax Recovery Officer to exercise limited powers of the Assessing Officer." This is not clear. Why should a Tax Recovery Officer also have limited powers of the Assessing Officer? The Assessing Officer has already done that job. That is a departmental officer, and then you again want to give powers to the Tax Recovery Officer who is, as it is, under heavy pressure

to get the taxes recovered, and for recovery of these taxes, he will go on scaring the assessees further, either lawfully or unlawfully. So, I don't think this kind of power is good in the civil society.

Sir, Clause 3 is good. Clause 4 talks about the changes in the Central Sales Tax. When the VAT is already introduced, I really don't know why these changes in the Central Sales Tax are required. *...(Interruptions)...*

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI PAWAN KUMAR BANSAL): The amendment does not subsist.

SHRI SANTOSH BAGRODIA: If it does not subsist, then why do you have it in the Statement of Objects and Reasons? That is what I am trying to say *...(Interruptions)...* If it does not, then, it should not be there.

SHRI PAWAN KUMAR BANSAL: There was an amendment in the Lok Sabha. That was negatived, and thereafter in the Bill as passed by the Lok Sabha, there is no need of that.

SHRI SANTOSH BAGRODIA: All right, I can understand your difficulty because the whole thing has been delayed, it might be required earlier, but not required now. I don't know about it. I just thought I should draw the attention of the hon. Minister towards this.

Now, Sir, I come to the Memorandum regarding the Delegated Legislation. The same thing has been said here also. The Memorandum says, "...the Tax Recovery Officer may also exercise or perform such powers and functions which are conferred on, or assigned to, an Assessing Officer."

I have already mentioned about it and I would not like to elaborate on it further. Memorandum No. 1 and Memorandum No. 2 are okay because they seem to be administrative in nature. Sir, coming to the Bill itself, Clause 2 says about the Assessing Officers to rectify mistakes. If the power is limited to rectify mistakes only, I support this. But if it is anything beyond the rectifying mistakes, then that should be stopped. Clause 23C of Section 10 is proposed to be amended to provide for one-time notification of entities covered by sub-clause (O), that is, charitable funds. I fully support it. This would dispense with the renewals which are currently required in every three years and which are cumbersome and definitely delaying. Similarly, the time limit of one year proposed to be provided for grant and rejection of application is good because there is a time limit. This will streamline the procedure of approval and avoid delay. Sir, clause

2.00 P.M.

5 (c) of the Bill, that is, Section 35(i)(ii)(iii) is good. I fully support it. Similarly, Sir, the amendment proposed to provide for one-time approval for entities in clause 5(e) of the Bill is okay and I fully support it. Most of the clauses are good and acceptable. Clause 10(a) regarding retrospective amendment of Section 56 is proposed to exclude sums received from fund or foundation or university or other educational institution, hospital or other medical institution or charitable fund or institution, wholly public or wholly public religious, or charitable trust or institution referred to in clause 23C of Section 10, or charitable trust or institution registered under Section 12AA. From the purview of income from other sources, this will address difficulties likely to be encountered by persons receiving sums or money from charitable or religious entities. I fully support it. Similarly, Sir, is the clause 12 (a) of the Bill. I fully support it. This is being proposed in order to enable the Government to monitor whether the aggregate annual receipts of such entities are below Rs. 1 crore. Clause 14 of the Bill is also good. This will enable rectification of the Assessment Order. So, I fully support it. Many amendments have been made for TDS. I have no objection to them because that is an administrative requirement. Coming to the indirect taxes, clause 20 provides for amending Section 17 of the Customs Act for issue of speaking order within 15 days from the date of assessment. This is very good because there is a time limit, otherwise the orders are not given for a long time and in the process the Department and assessee both suffer. Next I come to clause 22 and clause 35. They seek to introduce a new sub-section 1A under section 28 of the Customs Act and Sections HA of the Central Excise Act respectively to provide for an optional scheme for voluntary payment of duty by assessees in full or in part in cases involving fraud, mis-statement, etc., along with interest and 25 per cent of the duty amount as penalty within 30 days of the receipt of the show-cause notice thereby dispensing with the rigorous of adjudication procedure. I think, that will help in a big way. This is good because this will help in a big way. The process of adjudication will be reduced and a lot of revenue will come very fast. Next, Sir, I do not approve clause 20 and clause 33 which seek to insert new section 28BA in the Customs Act, 1962 and section 11DDA in the Central Excise Act, 1944, respectively to enable the Government to attach provisionally the property belonging to the importers, exporters, assessees during the pendency of the proceeding -I would like to underline the words "pendency of the proceedings"

—relating to determination of customs, Central excise duties evaded. Sir, this is draconian. It is not a healthy reflection because if duty is evaded, you judge it and let it be decided by the Appellate Authority, by the Court. If you have a provisional attachment and you take the possession fo the property, the production might be harmed. Lot of day-to-day problems will arise. Even if you attach only on papers, I can understand it, but if you attach it physically, I do not approve that. So you should make an amendment that it will be attached only on paper, and no physically; no possession will be taken physically. It can be understood. But, if it is physically taken, it will not be in the right spirit of a democratic system.

Then, Sir, clause 23 is very good because it says that to include a new section 110(A) under the Customs Act to enable provisional release of the goods, documents things to the owner prior to adjudication of a case. But, I would like to add here one amendment for the hon. Minister to consider, maybe under the rules, to give photocopies immediately. Because normal practice is that the photocopies are not given, and all the papers from the assessee are taken. Assessee can do nothing. The whole process is delayed. You cannot expect him to remember lakhs and thousands of documents which are taken over by these departments. So, photocopies should be given to the assessee immediately.

Sir, similarly, clause 24 seeks to insert a new section under the Customs Act which provides for a levy of penalty up to five times of the value of goods against improper exportation of goods. Export is one thing which we want. Now, what is 'improper exportation?' This is a very, very vague term. And, for this, five times penalty. This is draconian. It will affect the promotion of export. This should be considered and this penalty should be reduced otherwise exporters may be affected.

Next, Sir, clause 26 of the Bill seeks to amend the Customs Act to provide for filing of appeal by the authorised officer of the Department. Sir, normally, what is noticed is that the Income Tax Officer makes an assessment, and in favour of the assessee. Still, the Department is such that they do not trust their own officers. The Department goes for an appeal. In the appeal also, they lose. They go for higher authorities. And, they go on going up to the Supreme Court or to the High Court. Thousands and lakhs of cases get piled up at different levels. When you don't trust

your own officers, then it is a very sad situation. So, this must be avoided. Filing of appeals should be made to the minimum so that unnecessary litigation can be avoided.

The last point is regarding clauses 30 and 35 which respectively provide for publication of names and other particulars relating to importers, exporters, assessees, who are regarded as tax evaders and defaulters as a deterrent measure to recover the dues. Who has regarding them as tax evaders? It is the Department. They might be regarding them wrongly. Till this final decision is taken by the judicial authority, it will not be fair in this system of democratic society that only one sided assessment is done and not only this, you announce them and then the entire system of their business will get into trouble. Why do you want their business to be in trouble by this kind of putting their names in the papers? Give them a fair chance. Go to the Court. If the Court finally decides that they have evaded, please, by all means, you publish it. I have no objection. But, don't do it when it is pending.

Sir, as my friend Bhardwajji has mentioned, laws are very complicated. Once I made a mention, which I have mentioned many times in this House. Sir, I am assessed since my childhood. In our business, we have been filing our returns even before we become adults for fifty years. But, Sir, believe me, despite possessing some kind of education on this subject, I cannot file even my Income Tax Return myself. I only sign blank papers and the tax consultant puts all the figures in it. It is all because the form is very, very complicated. I do not know when are we going to have simplified forms for all kinds of taxation, which will make it easier to file returns. Otherwise, it appears that the laws are made to help the tax consultants, and, not the assessees. Sir, my friend mentioned about the black money. I think that the amendments brought in by the Minister will help the Government to curb the black money and also to recover the black money. That is why it is coming in a more broad-based manner.

Now, Sir, I come to another point that is being raised. Every year, in the month of March, and, not during the year, assessing officers are given a target. I cannot understand how can you give a target to any assessing officer of any taxation authority. The target should be that you should be able to draw every pie of tax. Let us suppose, the target given

is 'x' amount of money, a few crores of rupees, or, let us say, hundred crores of rupees to be collected by a tax officer, and, actually, he should have assessed say, five hundred or thousand crores. Now, if he has already assessed hundred crores of rupees, and, he has met his target, does it mean that he has achieved good results. I don't think that he has achieved good results. Sometimes, just to meet these targets, these officers take steps, which are not good, which are not in the interest of the department, which are draconian. Sir, there should be target like this. The target should be that you must assess, you must do everything efficiently and cover all the assessees, and tax as per the law and recover whatever amount is involved in the assessment.

Sir, now, I will refer to the controversial draft circular issued to the tax officers by the CBDT, which is gradually beginning to dawn on the market. The whole country is concerned. There is no doubt about it. I fully agree that the Finance Minister or the Government is not responsible. The prices go up and down for various reasons, for thousands of reasons. Nobody can be held responsible. Sir, the real investor is not bothered. The real investor will wait and get his dividend. It is the speculators. The Government is not bothered about the speculators. Somebody said, he should inform all the investors in time. What do you mean? Is it the duty of the Finance Minister to inform the investor to invest in so and so company? That is not his duty. But why this kind of controversial draft circular—firstly, 'controversial', and, secondly, 'draft'--of the department should not have been leaked. I am told that it is available on the internet. I cannot understand this. It is not a final circular, it is not an Order and that is what creates confusion in the minds of the entire country and that has created probably lot of problems for the market. This kind of thing has to be explained by the officer who is responsible for this act and appropriate action should be taken against him. Sir, this circular says, "the huge difference in tax rate, chargeable under business income and capital gains will prompt corruption, litigation."

श्री अरूण जेटली (गुजरात) : आप कह रहे हैं कि ऑफिसर्स के खिलाफ कार्यवाही कर रहे है, लेकिन आपके एलाइज रोज जो बयान दे रहे हैं और जिसका उस पर प्रभाव भी पड़ता हैं, आप उस पर भी तो कोई टिप्पणी कीजिए।

SHRI SANTOSH BAGRODIA: Sir, I am speaking as a Member of the House, और मैं आपको हेल्प ही कर रहा हूं, यदि आप उसमें भी खुश नहीं हैं, तो बताइए

कि मैं और क्या करूं। जो बात आपके मैम्बर्स को बोलनी चाहिए, वहीं मैं बोल रहा हूं, फिर भी आप खुश नहीं हैं, इससे ज्यादा फिर मैं क्या कर सकता हूं। I am equally responsible. Please. I am equally responsible. I am concerned about the economy. I am concerned about the market conditions. And, if my/Govemment also commits a mistake, I want to dare to say that this should be corrected. What more do you want?

श्री अरूण जेटली : आप सरकार की भी आलोचना करिए। एलॉइज जो कह रहे हैं उसकी वजह से असर पड़ रहा हैं। ...(व्यवधान)...

SHRI SANTOSH BAGRODIA: You cannot put words into my mouth. और आप हमको लिखकर बोल दीजिए तो हम वहीं पोइंट बोल दें, अगर इससे आपको खुशी मिलती हो। सर, मैं लॉयर भी नहीं हूं, मैंने तो लॉ पढ़ा हीं नहीं। वैसे लॉ के कॉलेज में हम जाते थे केवल कैरम खेलने, हम पढ़ते नहीं थे वहां पर और कभी डिग्री भी नहीं मिली और अब इनको डिग्री भी मिली, अनुभव भी हुआ। तो मैं तो लॉ की बात इतनी जानता भी नहीं। Sir, high net worth individuals and retail investors will feel the maximum heat as it would be easy to brand them as traders, another draft instruction. Since this kind of clarifications have come, this kind of suspicion has come in the minds of the investors, I will request the hon. Finance Minister to consider that before making a final circular. Sir, there is only one speaker and I have 45 minutes.

MR. DEPUTY CHAIRMAN: Does that mean you want to take all the 45 minutes?

SHRI SANTOSH BAGRODIA: Do you have any objection, Sir?

MR. DEPUTY CHAIRMAN: I have no objection.

SHRI SANTOSH BAGRODIA: Then, let me speak, Sir. If you gesture me to stop, I will stop. Had there been a second speaker, I would not like to speak more. But, since there is only one speaker, I am speaking. If I am making the point which has already been made by any speaker, then you can stop me. I am making some points which have not been made. So, let me continue to speak for some more time. Sir, the next point is, 'occasional investors can also be brought into the net if the assessing officer so defines'-the draft instructions. The assessing officer will have such a draconian power that even occasional investor can also be brought into the traders' list. I would like to request the hon. Finance Minister to

consider all these factors. I really don't care whether the prices go down or up. This morning, the market has further gone down. The market has been closed. I don't care about that. But, don't make draft circular, and not a confusing draft circular. If you want to make this kind of confusion, make it. But, let it be the final circular. I don't want any confusion on this, Sir. One of the CEOs of a leading domestic private sector expressed a concern. Now, the whole country is concerned as to what happens to the FIIs for foreign investment, as if we were dependent only on foreign investments. Complete relief should be given to them. What happens to the domestic investors? They are the citizens of the country. We cannot ignore them. And, what does this CEO says, Sir? "We are so enamoured by foreigners in this country that no one has still figured out the impact this circular will have on domestic investment." I request the hon. Finance Minister to figure this out also so that the domestic investors do not suffer. There is no prejudice against them. The domestic investors should not suffer just because we are focussing on the foreign investors. Sir, a senior tax consultant has said, "The tax burden could alter substantially depending on how the assessing officer interprets it, as business income or investment income." And that is why he said, "the interpretation should be done in favour of the assessee." Otherwise, if you give him this kind of power, the assessment will always be done against the assessee and this will bring innumerable litigations. So, we should have a very clear circular so that this kind of situation does not arise. Sir, I am not going into the details of the taxation rates because everybody knows that it will be much higher. "The instructions, however, do not refer to any time period, whether the criteria to distinguish between shares held as stock-in-trade and held as investment will be applicable from the date of issue of the final guidelines. This implies, it could cover even pending assessments" officials said. So, Sir, if we start assessing retrospectively, if the officer starts talking about pending assessments, based on the circulars which are being issued now, then, it will create unlimited problems for the department and the assessees. I am not saying that the hon. Minister should take some steps, in view of the situation which has arisen in the market, so that the Sensex goes back to 12000 mark. I am fully convinced and I would like to let my hon. friends on the other side know that there is no scam. The Government is responsible if there is a scam. But there is no scam. Prices go up and down which is a normal procedure. One year before, in the same market, the Sensex was at about

4000-odd points. Now, it has come to 12000. At that time, Sir, the fluctuation was up to ten per cent, say 400 or 500 points. Now also, when it is at 12000, the percentage fluctuation remains the same. It is a normal thing all over the world. We have to see the fluctuation from the percentage point of view, not in totality. Let the House know once more that the real, genuine investor has not lost anything. We are saying that a cap worth 200 thousand lakhs or crores of rupees has come down. Lakhs of crores or crores and crores of cap has come, but nobody bothers about that. This coming down and going up is a normal thing. This is a paper loss and paper gain. It does not mean anything. It only means something to the speculators. Tomorrow if somebody speculates in a horse race, Government cannot be held responsible for that. It is the speculators who speculate to their convenience, and the market will go up and down for 1000 reasons. If some big investors in America sneeze, that can also affect the world market. Even if something happens to the Prime Minister of a country, the market will go up and down. If there is a civil war, or if there is some other strike, anything can happen anywhere in the world because markets are now affected by the world situation. So, Sir, for this reason, the hon. Finance Minister cannot be held responsible or the Government cannot be held responsible. If there is any scam, they can be held responsible for that. I don't think there was any scam, and nobody has mentioned about any scam. With these words, I once again thank you, Sir, for bearing with me if i have taken a little longer.

SHRI PRASANTA CHATTERJEE (West Bengal): Mr. Deputy Chairman, Sir. I will not take much time. I support the Bill to amend the Income-Tax Act, 1961, the Customs Act, 1962, the Customs Tariff Act, 1975 and the Central Excise Act, 1944 as enumerated in the Taxation Laws (Amendment) Bill, 2006 Sir, this Bill was discussed in the Standing Committee also. I understand that some amendment has come in the right direction. But it has not been placed in a comprehensive manner as discussed in the Standing Committee, So, while supporting this Bill, our request will be that on the required changes, as discussed in the Standing Committee, the whole set up of Income-Tax, Customs, and Central Excise, you will bring a legislation in a very comprehensive manner. That is my request to the Minister. Sir it is good that the Amendment Bill, particularly 40A, which is regarding payment with regard to charitable institutions and others, as amended, is in the right direction. We support this because it has been stated that that will be in the form of account payee cheque or in the form of bank draft. It is in the right direction. So, we support this.

Now, Sir, we know that so far as the PAN cards are concerned, many assessees have more than one PAN card. This point will have to be looked into. Many assessees have received the intimation, but they have not received the PAN cards. That is another problem. Sir, even many bank account holders are not having PAN cards. It is reported that on a single day and on a particular address, thousands of accounts are opened in a bank. How has that happened? This is a very serious matter which will have to be looked into by the Ministry. It was discussed in the Standing Committee also in another way.

Then, Sir, there are many important administrative posts which are lying vacant. The administrative set-up is to be strengthened by filling up these vacant and very important posts. Only computerisation will not do. That is important, but filling up of these posts is very urgently required. Then, Sir, I would like to draw the attention of the Minister that there are cooperative societies—employees cooperatives and credit cooperatives. Their income may be treated as non taxable, particularly the employees cooperative and the credit cooperative, from the profit side. Then, Sir, there are charitable institutions which are doing good job. But some of them are exploiting this situation. Regulated measures will have to be taken in that area. It is very important. Sir, I would like to request the Minister to look into the matter.

Then, Sir, the last point is this. I would like to draw the attention of the Finance Minister to the long-pending demand of the salaried class of people, the workers and the employees, who are at the same time the most faithful tax-payers in the country, for removal of tax on housing, medical benefits, education facilities etc. provided by the employers. I understand that the hon. Minister once himself argued in favour of this demand as a lawyer in the court. But that has not been done. It is a very serious point in the interest of our salaried employees. I would like that for the sake of propriety and fairness, the income tax on these perquisites should be removed. I would request the Finance Minister to please consider the same and give an assurance to the House. It will be very good if he can given an assurance. With these words, with my observations and with the request to bring forward a comprehensive Bill, as discussed in the Standing Committee, I support this Taxation Laws (Amendment) Bill, 2006. Thank you.

MR. DEPUTY CHAIRMAN: Thank you. Now, Mr. P.G. Narayanan.

SHRI P.G. NARAYANAN (Tamil Nadu): Thank you, Mr. Deputy Chairman, Sir. The main object of this Bill is to rationalise and simplify certain procedures in taxation system. While widening the tax base and plugging the loopholes leading to leakage of revenue, the problems of tax-payers also have to be taken care of. The tax-payers are often subjected to undue harassment from the officials. Sir, I do admit that laws need change and alteration according to the change in the society. Sir, in spite of the efforts of the Government to improve and tighten the tax administration, black money is increasing day by day as a parallel economy. Some effective mechanism should be evolved to reduce the black money regime.

At the same time, tax evasion has to be stopped. In addition to simplifying the procedure, if we really want to maximise the tax collection, the Government has to take some concrete steps to create awareness among people to come forward voluntarily to pay their taxes. Some congenial and humanitarian atmosphere has to be created. Sir, I appeal to the Minister to withdraw 2 per cent tax imposed on the urban cooperative banks in the Budget. With these words, I conclude.

श्री अजय मारू (झारखंड) : उपसभापति महोदय, कराधान विधिंया (संशोधन) विधेयक 2006, जो कि लोक सभा में 17 मई को संक्षिप्त बहस के बाद पारित होकर आज यहां आया हैं। मैं इस बिल का समर्थन करने के लिए खड़ा हुआ हू, महोदय इस बिल का मुख्य उद्देश्य आयकर, सीमा शुल्क,सीमा शुल्क टैरिफ, केन्द्रीय प्रावधानों में तर्क संगत और सरल बनाना, आय के स्रोत को बढ़ाने के लिए टैक्स बेस को व्यापक करना और आय स्रोत बढ़ाने में कहीं कोई खामी हो तो उसे दूर करना, जिसकी वजह से राजस्व की चोरी न हो, यही एकमात्र उद्देश्य हैं। यह अच्छी बात हैं और इससे किसी को कोई आपत्ति न हो हैं। महोदय, जैसा स्टैडिंग कमेटी ने भी कहा हैं और मेरा भी कहना हैं कि सरकार यह सब संशोधन आयकर अधिनियम और कई आधिनियमों में बहुत जल्दी-जल्दी बदलाव करके ला रही हैं, इससे कई लोगों को, उद्योगपतियों को काफी दिक्कतों का सामना करना पड़ रहा हैं। अतः मैं माननीय मंत्री महोदय से अनुरोध करूंगा कि ऐसा विधेयक जल्द से जल्द लाया जाए जिससे लोगों को, उद्योगपतियों को अपनी दीर्घकालीन योजना बनाने में सहायता हो। और जब यह बिल लाया जाए तो उसमें व्यापक बहस हो और यह आगे आने वाली तिथि से लागू हो, न कि पीछे की तिथि से लागू हो। जैसा कि एक विधेयक में पहले ऐसा ही किया गया था, जिसका नुकसान हमारे देश के निर्यातकों को उठाना पड़ा था। महोदय, इस बिल में नार्थ ईस्टर्न डेवलपमेंट फाइनेंस लिमिटैड की स्थापना करने की

बात कहीं गई हैं। यह अच्छी बात हैं और इसके स्थापित होने से नार्थ ईस्ट में नए उद्योग धन्धों को लगाने में और उन्हें वित्तीय सहायता देने में मदद मिलेगी। महोदय, एक बात जो आयकर अधिनियम के तहत इसमें कहीं गई हैं, मैं उस वित्त मंत्री जी का ध्यान आकर्षित करना चाहूंगा। इसमें टैक्स रिकवरी ऑफिसर को निर्धारण अधिकारी की भी सीमित शक्तियां देने की बात कहीं गई हैं। महोदय, इसका मतलब यह होगा कि टैक्स रिकवरी ऑफिसर, जो एक टैक्स को रिकवर करने के लिए जाता हैं, वह वहां जाकर एक निर्धारण अधिकारी भी बन सकता हैं। यानी जो टैक्स की राशि उसको रिकवर करनी हैं, वह पांच हजार रूपए हैं, तो वह वहां जाकर उस राशि को और भी बढ़ा सकता हैं। इसमें यह कहा गया हैं कि एक निर्धारण अधिकारी बनकर वह ज्यादा रूपए का टैक्स भी वसूल कर सकता हैं। इस बात को स्पष्ट करना चाहिए कि सीमित शक्तियां क्या हैं, इसमें निश्चित राशि के कितने प्रतिशत तक निर्धारण करने के अधिकार दिया गया हैं। इस विधेयक में यह भी कहा गया हैं कि मांगों और प्रतिदायों को दस रूपए के निकटतर गुणज तक पूर्णाकित करना हैं। यह अच्छी बात हैं। मैं मंत्री महोदय से एक अनुरोध और करना चाहता हूं, एक तरफ तो जब हम एसेसमेंट करते समय उस दस रूपए के निकटतम गुणज तक पूर्णाकित कर रहे हैं, दूसरी तरफ जब स्टेट बैक ऑफ इंडिया लोगों को सेंविग बैंक खातों में जो इंटरेस्ट देता है तो वह इसका कैलकुलेशन पैसा में करता हैं। अगर इन्टरेस्ट 3 रूपये 26 पैसे आता हैं तो वह 3 रूपए 26 पैसे इंटरेस्ट के रूप में, सेंविंग बैक के लोगों को देता हैं।

अतः मैं मंत्री महोदय से अनुरोध करूंगा कि सेविंग बैंक का जो ब्याज हैं, उसको भी रूपयों तक सीमित किया जाए।

उपसभापति महोदय, सीमा शुल्क, सीमा शुल्क टैरिफ और अप्रत्क्ष करो में जो प्रावधान किए गए हैं, उनमे voluntary payment यानी देय कर को स्वेच्छया भुगतान बनाया गया हैं, जिससे विवादों को शीघ्रतम हल करने में सहायता मिलेगी, पहले यह प्रावधान नहीं था।

अंत में मैं यह कहना चाहूंगा कि विधेयक में केन्द्रीय विक्रय कर अधिनियम 1956 में अंतरराज्यीय कर विवादों को त्वरित रूप से, आसानी से सुनिश्चित करने के लिए सभी लंबित कार्यवाहियों के लिए धारा 24 की उपधारा (1) के अधीन अधिसूचित प्राधिकारी को अधिकार दिया गया हैं। इससे केन्द्रीय बिक्री कर में जो अंतरराज्यीय विवाद होते हैं, उनके लिए Appellate Authority को गठित करने की बात कहीं गई हैं, यह एक अच्छी बात हैं। इसका मुख्य उद्देश्य यह हैं कि जब कोई बड़ा औद्योगिक घराना एक राज्य में अपना उद्योग रखता हैं और दूसरे राज्य में इसकी उत्पादन इकाई हैं,वहां से यह विवाद शुरू हो जाता हैं। बड़े औद्योगिक घराने, अपने उत्पादित माल को दूसरे राज्यों में भेजकर उसकी बिक्री करते हैं और उसे वह stock transfer नही हैं यह inter state

Transaction हैं। इससे उस प्रदेश की बिक्री कर की जो आय हैं, उसमें हानि होती हैं। इसके लिए यह जो अधिनियम लाया गया हैं, मैं इसका स्वागत करता हूं यह समस्या मेरे प्रदेश झारखंड में भी हैं, क्योंकि वहां कई ऐसे औद्यौगिक घराने हैं, जिसके उद्योग झारखंड में हैं,लेकिन उनकी बिक्री के स्थान, उस प्रदेश से बाहर हैं,इ सके कारण कई तरह के विवाद वहां उत्पन्न हो जाते हैं। अब इस विधेयक के परित हो जाने के बाद Appellate Authority इन विवादों का हल करेंगी कि यह stock transfer में आता हैं या inter state transaction में आता हैं।

उपसभापति महोदय, अभी हमारे पूर्व वक्ता माननीय श्री संतोंष बागडोदिया जी ने stock market के बारे में कुछ बातें कहीं हैं। लोक सभा में भी अपने वक्तव्य में वित्त मंत्री जी ने ipo scam के बारे में कहा था कि मैं इसके बारे में बाद में बात करूंगा। लेकिन श्री बागडोदिया जी ने कहा कि stock market में index का बढ़ना और घटना लगा रहता हैं और उन्होने यह भी कहा कि जब कोई त्रासदी हो जाती हैं, तभी ऐसा होता हैं , लेकिन पिछले 3 कार्य दिवस में stock market में 2,000 अंको की गिरावट आई हैं,जब कि देश में कोई त्रासदी नहीं थी। महोदय, इसके चलते 6 लाख करोड़ रूपए का market capitslizstion कम हुआ हैं, इसकी जांच होनी चाहिए। IPO घोटलों में भी यह हुआ कि एक दिन SEBI ने यह निर्णय दिया कि ।PO घोटलें में जितने लोग अंतर्लिप्त हैं, उनके खिलाफ कार्यवाही की जाएगी। रात को उन्होने यह बयान दिया और दूसरे दिन Market 5 मिनट के अंतराल में 500 प्वाइंट्स गिर गया, उसके बाद फिर उन्होने स्पष्टीकरण दिया और market,200 प्वाइंट चढ़ गया इस तरह एक दिन में 700 प्वाइंट्स का उतार-चढ़ाव कोई सामान्य बात नहीं हैं। पिछले 3 कार्य दिवस से यह हो रहा हैं। मुझे याद हैं कि एक बार NDA के शासन काल में जब Market 200 प्वाइंट्स गिर गया था, तो यही वक्ता उस समय बोलते थे कि वित्त मंत्री अपना इस्तीफा दें। अभी पिछले दिनों में जब यह market capitaliation 2,000 प्वाइंट्स तक गिर जाता हैं, तो यह कोई सामान्य बात नहीं हैं। अतः इसकी जांच होनी चाहिए। वित्त मंत्री इस पर अपना स्पष्टीकरण दें, अन्यथा वित्त मंत्री अपना इस्तीफा दें। इन्ही शब्दों के साथ, मैं इस विधेयक का स्वागत और समर्थन करता हूं।

THE MINISTER OF PARLIAMENTARY AFFAIRS (SHRI PRIYARANJAN DASMUNSI): Sir, I just like to draw your attention for half-a-minute to an item in the revised List of Business. I want to inform through you, Sir, the House that the Constitutional (Amendment) Bill has been passed by the Lok Sabha. Sir, at 4 o'clock, whatever be the progress of other Business, we should take up this Bill. Exactaly at 4 o'clock, Sir, we should take it up because the Members are on a whip. So, they will all assemble here at that time. Unless there is a definite time intimated to them, I will have some problem.So, I appeal to you to have the sense of

the House that whatever be the progress of other Business, at 4 o'clock, we should take up the Constitutional (Amendment) Bill.

MR. DEPUTY CHAIRMAN: I think, we will finish the Taxation Bill.

SHRI PRIYARANJAN DASMUNSI: No, I am not saying that.

MR. DEPUTY CHAIRMAN: Then there is a small Bill on *...(Interruptions)...*

SHRI PRIYARANJAN DASMUNSI: Sir, at 4 o'clock, whatever be the progress of other Business, please take up the Constitutional (Amendment) Bill.

MR. DEPUTY CHAIRMAN. At 4 o'clock, I think, we can take it up.

SOME HON. MEMBERS: Sir, please take it up. We have no objection.

MR. DEPUTY CHAIRMAN: Okay.

श्री मांगनी लाल मंडल (बिहार) : महोदय, मुझे माफ कीजिएगा, मैं क्षमा चाहता हूं कि जब मेरा नाम पुकारा गया था, तब मैं सदन में नहीं था। महोदय, यह जो कराधान (संशोधन) विधेयक, 2006 आया हैं, यह लोक सभा में 12 मई 2005 को ही पेश किया गया था और 13 मई को लोक सभा के माननीय अध्यक्ष महोदय ने इसे स्थायी समिति (वित्त) को जांच के लिए, परीक्षण के लिए सौंप दिया और तब यह विधेयक आया हैं। एक वर्ष में, मई 2005 से अब तक इस विधेयक के पक्ष और विपक्ष में अखबारों में भी लेख छपते रहे हैं। यहां बहुत लोगों ने शंका जाहिर नहीं की, मै तो सोचता था कि यशवंत बाबू अपनी बात कहेंगे। इस एक विधेयक में कई संशोधन आए हैं। माननीय वित्त मंत्री जी नेभी बताया कि आयकर अधिनियम 1961 सीमा शुल्क अधिनियम 1962, सीमा शुल्क टैरिफ अधिनियम, 1975 केन्द्रीय उत्पाद शुल्क अधिनियम, 1944 और केन्द्रीय बिक्री कर अधिनियम 1956 का संशोधन करने का इसमें प्रस्ताव हैं। लोक सभा ने 17 मई 2006 को इसे पारित किया।

महोदय, मैं माननीय वित्त मंत्री जी को धन्यवाद देना चाहता हूं कि उनकी जो चिन्ता हैं कि कर के आधार को व्यापक बनाना हैं और इसमें जो कमियां हैं, जिसके चलते कर वंचना होती हैं, उन कमियों को दूर करना हैं, ताकि कर वंचना हो सके। कर का जो वास्तविकता मूल्यांकन होना चाहिए, कर का वह मूल्याकंन नहीं हो पाता हैं। कर चोरी होती हैं, काला धन बढ़ता हैं। अभी स्वयं वित्त मंत्रालय ने एक सर्वेक्षण कराया था, जिसमें कस्टम्स और एक्साइज का 15 हजार करोड़ का अभी एरियर्स हैं। इसमें ऐसा होता हैं कि जब एरियर के लिए नोटिस तामील की जाती हैं,तो सम्पत्ति का हस्तांरण कर दिया जाता हैं, ताकि जो एरियर हैं, उस बकाया राशि का भुगतान न

करना पड़े। इन सारी चीजों के लिए इस विधेयक में पुख्ता व्यवस्था की गई हैं, ताकि सरकार को कर भी ज्यादा मिल सके, कर वंचना रूक सके और जो loopholes हैं, गलियां हैं, जिससे लोग निकल जाते हैं, सरकार का राजस्व नहीं देते हैं, इन तमाम चीजों को, कमियों को दूर करने के लिए व्यापक बन्दोबस्त किया जाय। प्रक्रिया में सरलता लाने के साथ-साथ माननीय वित्त मंत्री जी ने भी एक शब्द कहा कि इस विधेयक के माध्यम से एक तरह से इसे tight किया गया हैं, संवद्धर्न किया गया हैं, सशक्तीकरण किया गया हैं। माननीय उपसभापति महोदय, इसलिए यह जो विधेयक आया हैं, आपकी ओर से बार-बार इशारा हो रहा हैं, मैं इसका समर्थन करता हूं और इसके लिए माननीय वित्त मंत्री जी को पुनः बधाई देता हूं। धन्यवाद।

THE MINISTER OF FINANCE (SHRI P. CHIDAMABARAM): Mr. Deputy Chairman, Sir, I first apologise for not being present in the House for a greater part of the debate, but my colleague has been here and I have read through his notes and I will deal with the issues raised by the hon. Members.

Sir, as I said in my opening statement, this is largely procedural, but some amendments are important amendments having regard to the difficulties that we have faced in administering the tax laws. When we make a law or pass a Bill, the intentions are quite clear. But in their application, sometimes, we find that are difficulties and it is to address these difficulties that we are introducing these amendments and I brought them compendiously as Taxation Laws (Amendment) Bill.

Sir, a question was raised by hon. Member, Shri Bhardwaj, about black money, VAT, etc. But some of the provisions made in this Bill are intended to curb the use of unaccounted money. For example, the requirement of paying any sum above Rs. 20,000, which is a business expenditure, by an account payee cheque is intended to curb the use of unaccounted money. Unfortunately, in this country a large number of people continue to do business partly with accounted money and partly with unaccounted money. We have to curb that tendency because that is a menace. We have to urge everyone to keep one book of account and deal with money which is brought into the books of accounts. The incentive to evade tax is very high when the tax rates are very high. Today, tax rates in India are very competitive and comparable to tax rates worldwide. Now I would urge everyone to comply, now that there is simply no incentive to the people in this field to deal with unaccounted money. But if any instance of dealing with unaccounted money comes to our notice, we will

take serious steps. It is because we have tightened the tax administration that the revenues have increased by 20 per cent in 2004-05, by another 20 per cent in 2005-06, and the Budget projects envisage a similar 20 per cent increase in the gross tax revenues for 2006-07. I am happy to report that compliance in the corporate sector has improved; compliance among taxpayers under personal income-tax has also improved. What has not improved, to my satisfaction, is the number of people who come into the PIT net. As we raise the exemption levels, people go out of the net. But a large number of people ought to come into the net; I concede that they are not yet in the net. But the steps that we are taking will bring them into the net.

As far as VAT is concerned, it is a success story. I compliment the State Governments for coming on board on VAT. I also compliment the five States which have joined VAT on the 1st of April, 2006. 'Better late than never.' You may have seen a report in the newspapers regarding the the Delhi Administration's VAT collections in the month of April. They have exceeded the sales tax collections of any year earlier. VAT is a very progressive tax. It is a tax on value addition. It is not a cascading tax. It also brings about a large measure of discipline to the manner in which trade carries out its transactions. There are only two States and one Union Territory which are holding out against VAT. I will take this opportunity to urge upon the two States—I won't name them...

AN HON. MEMBER: Let us know the names.

SHRI P. CHIDAMBARAM: Everybody know them. I would urge upon the two States to come on to the VAT. The Union Territory has promised that once their neighbouring State comes on to VAT, then, they will also come on to VAT on the same day. The Central Sales Tax is inconsistent with VAT. It has to be phased out. It will be phased out, but we are still in discussion with the Empowered Committee of State Finance Ministers. We have to arrive at an appropriate phase-out timetable, and an appropriate compensation package. We are working on it, and with the support of the House, I am confident that we will succeed in arriving at consensus with the States. Once that consensus is arrived at, the beginning of phasing out of CST will start.

Sir, Shri Bagrodia, with his usual knowledge and eloquence, touched upon a number of subjects. I don't wish to deal with each one of them.

He asked: "Why an account payee cheque?" I can turn around and ask him: "Why not an account payee cheque?" If a crossed cheque is acceptable, then, why not an account payee cheque? should the amount be raised above Rs. 20,000, we will keep that in mind. Yes; maybe, it is necessary to consider that. I will keep that in mind. Then, Sir, clauses 23 and 38 are only attachment provisions. Provisional attachment does not mean that prossession will be taken, unless there is an attempt to fraudulently alienate the property or dissipate the property or allow the property to deteriorate. If such conditions don't apply, then, provisional attachment will simply be a provisional attachment under which the person holding the property is prohibited from alienating or dissipating the property. The hon. Member wanted to know what the purpose of clause 27 is. Now, clause 27 introduces Section 114AA, after Section 114 A. If you read 114 A of the Customs Act and then, clause 27, which introduces Section 114 AA, it will become clear. What we are trying to do is that there are a number of cases where people make, or cause to be made, a declaration or a statement or a document which is false, in the transaction of any business for the purpose of the Customs Act. It could be a false import manifest or a false bill of entry.

Now, that, unfortunately, was not punishable. Therefore, we are introducing this provision to provide for penalty in such cases. Sir, five times is not on the higher side because the penalty being five times the value of goods is provided in several other sections of the Customs Act. We have simply applied the same scale to this section also. As far as Clause 38 is concerned, again, power is being taken to publish names of persons who have been prosecuted under the Act. Now, I think, one way in which we can curb the tendency to avoid excise duty is to publish chronic defaulters' names. If somebody is a chronic defaulter, then, clearly, his name should be known to everyone. If you read sub-section (2), it will be very clear. It says that no publication should be made until the time for presenting an appral has expired without an appeal having been presented, or, the appeal, if presented, has been disposed of. 'Disposed of means once the final order comes. Once the final order comes, then, of course, we must have the power to publish those names.

Sir, some question, I believe, was raised about the CBDT circular. It does not arise out of this Act, but let me take the opportunity to clarify. There was a circular in 1989 which culled out the principles laid down by

the Supreme Court and the High Courts on how a person should be classified, either as a trader or as an investor. There is nothing new about the circular. That circular caused no problems at all. Seventeen years have passed. There have been several other judgments. All that the CBDT did was to put out a draft circular—underline the words 'draft circular'[1]— on the website, updating the earlier circular, and asking people to give their comments and views. It is a perfectly democratic exercise, a transparent exercise, carried out by CBDT in the normal course of business. Unfortunately, there was some misinformed or uninformed reporting. I have mildly chided the newspapers concerned that they should not indulge in such uninformed reporting on sensitive matters. These are extremely sensitive mattes. They could have easily checked back with the Ministry. They could have checked back with me. Correspondents call me ail the time on my mobile phone. They could have easily checked back with me. Now, without checking back with any one, it was an uninformed report and it led it to a spate of reports. What is causing me some disappointment is that there continues to be such uninformed writing. I would requested the media to be more restrained when reporting about sensitive matters. Anyway, I have clarified it. As hon. Deputy Chairman and other Chartered Accountants like my good friend know, there are separate provisions in the Income-tax Act, dealing with foreign institutional investors, they are section 115AD, section 90, and there are any number of judgments which deal with the matter. So, a circular issued in the normal course of business to elicit public opinion before it is finalised ought not to have stimulated such inspired reports. Anyway, that matter has come to a rest now. I don't want to continue to debate that further. The law is very clear. Whether a person is an investor or a trader, it is a question of fact. It will be decided according to established criteria laid down by the courts. And that is how it is decided. Nobody can a *priori* say whether a person is an investor or a trader; it is a question of fact.

SHRI SANTOSH BAGRODIA: I am sorry to interrupt you, Sir. So, there will be no ambiguity about this. That '15-point' or something you have mentioned—no officer can go with any discretionary power. He will go by the rules.

SHRI P. CHIDAMBARAM: I am glad you raised it. Instead of leaving it to the arbitrary discretion of officers, these guidelines are to provide for greater clarity, greater transparency. Therefore, there will be a greater

degree of uniformity in the system. I cannot still say that one assessing officer will not make a wrong assessment, but that is to be corrected in appeal. The point is, these guidelines are for the purpose of greater clarity and greater transparency. In fact, investors must be reassured that the Board has issued a circular which brings about greater clarity, greater transparency and greater certainty.

Sir, this circular applies to all investors. If an Indian is buying and selling shares and securities in the market, he could either be a trader or could be an investor. The criteria will apply to him and, in his case, his assessing officer will decide whether he falls under the category of a trader or the category of an investor. That is how all assessments are made. This is not the only circular which lays down guidelines. There are any number of circulars of the CBOT for the last 50 years which lay down guidelines for assessing officers. In fact, the act gives power to the CBDT to issue such circulars.

Sir, there was some reference to PAN Cards, some reference to the IPO Scam. These are all quite outside the scope of this Bill. But, let me assure you, on PAN Cards, yes, there have been some instances of duplicate PAN Cards having been issued. Corrective measures have been put in place, but the number is miniscule; the number is very small compared to crores of PAN Cards that we have issued.

Sir, as far as the IPO Scam is concerned, as I have already answered in this House—I believe, I answered only a few days ago—we have identified the investors, the bank branches, the Branch Managers, the depository participant where the failure has taken place. Stringent actions are being taken. The interim order of the SEBI, which I urged you to read from the Website, is a detailed order. Now, they have been given a post-decisional hearing. A final order will be passed. Everything will be done according to the law, but nobody who has indulged in that malpractice will go unpunished. In fact, the severest penalties will be visited upon them. And, I have requested the SEBI to examine how we can make them disgorge the illegal gains that they have made through multiple applications under an IPO. This is under examination. If that is legally permisible, as I believe it is, we will make them disgorge their illegal gains. But the ordinary investor has nothing to worry because the fundamentals of the economy are strong. When we have a discussion

on prices or any other subject, I will deal with the fundamentals. The reserves of the country stand at 163 billion US dollars, the inflation is being contained at four per cent, the manufacturing sector is growing at 9.1 per cent, the GDP growth for 2005-06 is estimated at 6.1 per cent and the growth story, I am confident, will continue this year too. In fact, all of us can legitimately take pride that, as Parliament, we are putting in place policies which continue to stimulate growth. This is not a matter for which only a party will take credit, or, a Government will take credit. As a nation, we must take credit that the economic fundamentals of this country are strong. And, I want all of us to share that pride that the economic fundamentals are strong. That does not mean that the issues which deserve to be addressed are neglected. But as I have said repeatedly, we can address those issues only when we have the revenues, and the revenues will come only when there is a strong growth. I repeat, the economic fundamentals of this country are strong and it will be my endeavour, the endeavour of our Government, to keep the economic fundamentals strong. Thank you, Sir.

MR. DEPUTY CHAIRMAN: The question is:

> "That the Bill further to amend the Income-tax Act, 1961, the Customs Act, 1962, the Customs Tariff Act, 1975 and the Central Excise Act, 1944, as passed by Lok Sabha, be taken into consideration."

The motion was adopted.

MR. DEPUTY CHAIRMAN: We shall now take up clause-by-clause consideration of the Bill.

Clauses 2 to 39 and the Schedule were added to the Bill.

Clause 1, the Enacting Formula and the Title were added to the Bill.

SHRI P. CHIDAMBARAM: Sir, I move:

That the Bill be returned.

The question was put and the motion was adopted.